



१८१

भारत का राजपत्र

The Gazette of India

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

लंबा 2]

नई दिल्ली, शनिवार, जनवरी 10, 1987/पौष 20, 1908

No. 2] NEW DELHI, SATURDAY, JANUARY 10, 1987/PAUSA 20, 1908

इस भाग में भिन्न पृष्ठ संख्या वाली जाती है जिससे कि यह संसद के एवं में
राजा वा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)
PART II—Section 3—Sub-section (iii)

(जन्म राज्य के प्रशासनीय को छोड़कर) इन्हीं अधिकारियों द्वारा जारी किए गए आदेश और अधिसंचार।
Orders and Notifications issued by Central Authorities (other than Administrations of Union Territories)

भारत निर्वाचन आयोग
नई दिल्ली, 7 विसम्बर, 1986

द्वादश

आ. प. 4.—निर्वाचन आयोग का समाधान हो गया है कि 1984 में दूष लोक सभा के सावधारण निर्वाचन के लिए 26-चिक्कोडी (स. जा.) निर्वाचन जोन से निर्वाचन लड़ने वाले इन्हर्याँ श्री काले दुःख्या तिप्पना, थोस्ट फाफिल हल्याल, तालुक इयानी, जिला बेळगाम, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदोन वाला ए नियमों द्वारा घोषित अपने निर्वाचन घर्यों का कोई भी लेखा घायिल करने में असफल रहे हैं;

और उक्त इन्हर्याँ में सम्मुख सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण इन्होंना स्पाटोकरण नहीं दिया है या उनके द्वारा दिए गए अस्पातोकरणों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास असफलता के लिए कोई पर्याप्त कारण या ग्राह्योत्तिष्ठ नहीं है;

अतः आ. प. 5.—निर्वाचन आयोग उक्त अधिनियम की धारा 10-के अनुसरण में, श्री काले दुःख्या तिप्पना को संमित के किसी भी सदन के या किसी राज्य/संघ राज्य/सेवा की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए द्वादश की तारीख से तीन वर्ष की कानूनविधि के निरहित घोषित करता है।

[सं. 76/कर्नाटक/86(354-355)]

ELECTION COMMISSION OF INDIA
New Delhi, the 7th December, 1986

ORDER

O.N. 4.—Whereas the Election Commission is satisfied that Shri Kale Dundappa Tippanna, at Po : Halyal, Taluk : Athani, Dist-Belgaum, a contesting candidate for the General Election to the House of the People held in 1984 from 26-Chikkodi (SC) constituency has failed to lodge any account of his election expenses as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidate has not furnished any reason or explanation for the said failure even after due notice and the Election Commission is further satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares Shri Kale Dundappa Tippanna to be disqualified for being chosen as and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order.

[No. 76|KT|86(354-355)]

नई दिल्ली, 8 विसम्बर, 1986
आदेश

आ. प. 5.—निर्वाचन आयोग का समाधान हो गया है कि 1984 में दूष समिलनाद्वारा विधान सभा के सावधारण निर्वाचन के लिए 163-इन्हिमाडम विधान सभा निर्वाचन-जोन से निर्वाचन लड़ने वाले इन्हर्याँ

भी है। जेसुबालन, सुपुत्र इरुध्यासामी, उदयार स्ट्रीट, वादुगोपालयम (डाकघर), उदयारपलयम तालुक, तिरुचिरापल्ली ज़िला (तमिलनाडु) लोक प्रतिनिधित्व प्रधिनियम, 1951 तथा तदोन बनाए गए नियमों द्वारा अवैधिक घपने निर्वाचन घ्यर्यों का कोई भी लेखा वाखिल करने में असफल रहे हैं;

और उक्त अध्यर्थी ने सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए कोई भी कारण अवश्य स्पष्टीकरण महीन दिया है और निर्वाचन प्रायोग का यह समाधान हो गया है कि उसके पास उक्त असफलता के लिए कोई पर्याप्त कारण या आयोचित नहीं है;

प्रत: ग्रन्थ, निर्वाचन प्रायोग उक्त अधिनियम, की घारा 10-के अनुसरण में भी है। जेसुबालन को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य के विभाग सभा अवश्य विद्यान परिषद् के सदस्य चुने जाने और होने के लिये आवेदन की तारीख से तीन वर्ष की कालावधि के लिये निरहृत घोषित करता है।

[सं. 76/स.ना./86(271)]

आवेदन से,
सौ.एल. रोज़, भविष्य

नई दिल्ली, 8 दिसम्बर, 1986

आवेदन

प्रा. घ. 6 : निर्वाचन प्रायोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट मध्य प्रदेश विभाग सभा के लिए सांश्चारण निर्वाचन, 1985 के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से दुप्रा है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाले अध्यर्थी, लोक प्रतिनिधित्व प्रधिनियम, 1951 तथा तदोन बनाए गए, नियमों द्वारा उक्त सारणी के स्तम्भ (5) में यथा उपर्युक्त रूप में घरने निर्वाचन घ्यर्यों का लेखा वाखिल करने में असफल रहा है।

और उक्त अध्यर्थी ने सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अवश्य स्पष्टीकरण नहीं दिया है या उसके द्वारा दिए गए अस्यावैदम पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन प्रायोग का यह समाधान हो गया है कि उसके पास उक्त असफलता के लिए कोई पर्याप्त कारण या आयोचित नहीं है।

प्रत: ग्रन्थ, निर्वाचन प्रायोग उक्त अधिनियम की घारा 10-के अनुसरण में नीचे की सारणी में स्तम्भ (4) में विनिर्दिष्ट अवैधिक घोषित को संसद के किसी भी सदन के या किसी राज्य की विभाग सभा अवश्य विद्यान परिषद् के सदस्य चुने जाने और होने के लिए इन आवेदन की तारीख से तीन वर्ष की कालावधि के लिए निरहृत घोषित करता है;

सारणी

क्र. सं.	निर्वाचन की विशेष्या	निर्वाचन अंदर की क्रम सं. तथा नाम	निर्वाचन लड़ने वाले अध्यर्थी का नाम व पता	निरहृती का कारण
(1)	(2)	(3)	(4)	(5)
1.	मध्य प्रदेश विधान सभा के लिए सांश्चारण निर्वाचन, 1985	15 खालियर	श्री भोगीराम, अग्नापुरा नं. 2, लौहामण्डी, खालियर (म. प्र.)	निर्वाचन घ्यर्यों का कोई भी लेखा वाखिल नहीं किया।
2.	वही	वही	श्री बाल किसन, बिरला नगर, खालियर (म. प्र.)	वही
3.	वही	वही	श्री शिवनाथ, कुरियाना मोहल्ला, गोपीपुरा, खालियर (म. प्र.)	वही
4.	वही	74 सीधी	श्री भगोले ग्राम-चमरीहाला, पोस्ट व जिला-सीधी (म. प्र.)	वही
5.	वही	वही	श्री रामजनी, ग्राम-चमरीहाला, पी. अमितनाथ, जिला-सीधी (म. प्र.)	वही

New Delhi, the 8th December, 1986

ORDER

O.N. 5.—Whereas the Election Commission is satisfied that Shri E. Jesubalan, S/o Erudhyasamy, Udayar Street, Vadugapalayam (P. O.), Udayarpalayam Taluk, Tiruchirappalli District (Tamil Nadu), a contesting candidate for the General Election to the Tamil Nadu Legislative Assembly held in 1984 from 163-Andimadam Assembly constituency has failed to lodge any account of his election expenses as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidate has not furnished any reason or explanation for the said failure even after due notice and the Election Commission is further satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares Shri E. Jesubalan to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order.

[No. 76/TN/86(271)]
By Order,
C. L. ROSE, Secy.

1	2	3	4	5
6.	मध्य प्रदेश विधान सभा के लिए सांसारण मिर्चाथन 1985	74 संघीं	श्री रामचंद्री, प्रा. व पी. सी.धी., जिला-सीधी (म. प्र.)	निर्वाचित ध्यारों का हाँड़ी भो लेका वालिल नहूं किया।
7.	वही	78 सिंगरीली (म. ज.)	श्री शिवदास, ग्राम-डोटी, डाक-बैठन, जिला-सीधी (म. प्र.)	वही
8.	वही	वही	श्री गोपनाथ, ग्राम-टेलवड, पोस्ट-बैठन, नीगाँव, जिला-स.धा. (म. प्र.)	वही
9.	वही	79 ब्लौहारी	श्री बाबुलाल, ग्राम ब डाक-घरी सं. 2, जिला-महोल (म. प्र.)	वही
10.	वही	वही	श्री शब्दुलाम, चौहारी, जिला-महोल, (म. प्र.)	वही
11.	वी	86 पुष्पराजगढ़ (म.ज. जा.)	श्री सम्मुखिह, ग्राम-सरदौ, पो. खम्मोदी जिला-महोल (म. प्र.)	वही
12.	वही	वही	श्री शेरसिंह, ग्राम वी. शिवरीवाल, जिला-महोल (म. प्र.)	वही
13.	वही	वही	श्री हजारी सिंह, ग्राम-किली, पो. राजेन्द्रपाल, जिला महोल (म. प्र.)	वही

[सं. 76/म. प्र. वि.स./85(11)]
प्रादेश से,
मलवाह तिहुं, प्रबरसचिव

New Delhi, the 8th December, 1986

ORDER

O.N. 6.—Whereas the Election Commission is satisfied that the contesting candidates specified in column (4) of the Table below at the General Election to the Madhya Pradesh Vidhan Sabha, 1985 as specified in column (2) held from the constituencies specified in column (3) against his name have failed to lodge the account of their election expenses as shown in column (5) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice and the Election Commission, after considering the representation made by them, if any is satisfied that he had no good reason or justification for said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the person specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order :

TABLE

Sl. No.	Particulars of election	S.No. and name of constituency	Name and Address of the Contesting Candidates.	Reason of disqualification
1	2	3	4	5
1.	General Election to the M.P. Legislative Assembly, 1985	15—Gwalior	Shri Bhogi Ram, Jagnapura No. 2, Lohamandi, Gwalior, (M.P.)	Failed to lodge any account of election expenses
2.	-do-	-do-	Shri Balkisan, Birlanagar, Gwalior, (M.P.)	-do-

1	2	3	4	5
3.	-do-	15—Gwalior Legislative Assembly, 1985	Shri Shlv. Nath Kuriyanra Mohalla, Goshpura, Gwalior, (M.P.)	Failed to lodge any account of election expenses.
4.	-do-	74—Sidhi	Shri Bhagole Vill. Kotarkala, P.O. & District Sidhi, (M.P.)	-do-
5.	-do-	-do-	Shri Ramjani, Vill. Chamroha, P.O. Amiliya, Distt. Sidhi. (M.P.)	-do-
6.	-do-	-do-	Shri Ramdhani Vill. & P. O. Sidhi Distt. Sidhi (M.P.)	-do-
7.	-do-	78—Singhrauli (SC))	Shri Shiv Dass Vill. Dhoti, P.O. Bairdhana, Distt. Sidhi (M.P.)	-do-
8.	-do-	-do-	Shri Shobhnath, Vill. Teildah, P.O. Pondi, Naugai, Distt. Sidhi, (M.P.)	-do-
9.	-do-	79—Beohari	Shri Babu Lal, Vill. & P.O. Dhari No. 2. Distt. Shahdol, (M.P.)	-do-
10.	-do-	-do-	Shri Babu Lal Vyoheri, Distt. Shahdol, (M.P.)	-do-
11.	-do-	86—Pushaprajgarh	Shri Shambhu Singh Vill. Sarai, P.O. Khamrov, Distt. Shahdol (M.P.)	-do-
12.	-do-	-do-	Shri Sher Singh Vill. & P. O. Shivrichandas, Distt. Shahdol, (M.P.)	-do-
13.	-do-	-do-	Shri Hazari Singh, Vill. Kirgi, P.O. Rajendragram, (M.P.)	-do-

[No. 76/MP-LA/85(11)]

By Order,
BALWANT SINGH, Under Secy.

नई विलो, 8 दिसम्बर, 1986

प्रादेश

आ. अ. 7.—तिर्यक्षित प्रायोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिश्चित उत्तर प्रदेश विधान सभा के के निए साधारण निर्वाचन, 1985 के निए जो स्तम्भ (3) में विनिश्चित निर्वाचन-भेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिश्चित निर्वाचन लड़ने वाले अध्यर्थी, सोक प्रतिनिधित्व भवित्वमें 1951 तथा तदीन थवाए गए नियमों द्वारा उक्त सारणी के स्तम्भ (5)में इष्ट उपलब्धित रूप में घपने निर्वाचन अध्ययों का लेखा वाचिक हरने में प्रसफल रहे हैं।

और उक्त अधिकारी ने सम्पूर्ण सूचना दिये जाने पर भी उक्त असफलता के लिए या तो होई काला अथवा स्पष्ट करण नहीं दिया है या उनके द्वारा दिए गए प्राप्ति बेदन प्रति यदि कोई हो, विचार करने के पश्चात् निर्वाचन प्राप्ति का यह समावाह हो गया कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्यापकान्वय नहीं है।

अब अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनियिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य बनने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्रम सं.	निर्वाचन की विधियाँ	निर्वाचन क्षेत्र की क्रम संख्या एवं नाम	निर्वाचन लड़ने वाले प्रभ्यर्थी का नाम व निरहृता का कारण पता
1	2	3	4
1.	उत्तर प्रदेश विधान सभा के लिए, साधारण 5 वरेली सिंह निर्वाचन, 1985।	5—वरेली सिंह	श्री डेनारायन सिंह, 544 श्री, रामपुर बाग, वरेली (उ. प्र.)
2.	—वही—	157—उत्तरोत्ता	श्री अमृत हर्मीद, पुरीनिया तालाब, बलरामपुर, जिला-गोण्डा (उ. प्र.)
3.	—वही—	—वही—	श्री विवरी इरणाव अहमद, ग्राम व पो. उत्तरोत्ता, जिला-गोण्डा (उ. प्र.)
4.	—वही—	—वही—	श्री सुलाराम, ग्राम व पो. गुमडी, जिला गोण्डा (उ. प्र.)
5.	—वही—	296—राजपुर	श्री रामप्रकाश त्रिपाठी, ग्राम बड़ापांड, पोट भीनपुर, जिला कानपुर देहात (उत्तर प्रदेश)
6.	—वही—	336—भोगांव	श्री प्रशिकनी कुमार, ग्राम व पो. भवनपुरी, जिला भैनपुरी (उ. प्र.)
7.	—वही—	—वही—	श्री माजन लाल, ग्राम ऐरापुर गुजराती, पो. रत्नपुर बरा, जिला भैनपुरी (उ. प्र.)
8.	—वही—	—वही—	श्री माशी सिंह, ग्राम नालागढ़, पो. गडिया, जिला भैनपुरी (उ. प्र.)
9.	—वही—	—वही—	श्री राम सिंह, ग्राम भोजपुरा, जिला भैनपुरी (उ. प्र.)
10.	—वही—	—वही—	श्री शिव सहाय, ग्राम इटोरा, पो. अजीतगंज, जिला भैनपुरी (उ. प्र.)
11.	—वही—	348—एटा	श्री रामगाव, पो. नरायनगढ़, एटा (उ. प्र.)
12.	—वही—	379—चर्ची	श्री श्रीनिवास , पो. केशरुरी भूमेश, भोदीनगर, जिला गाजियाबाद (उ. प्र.)

निर्वाचन व्यक्ति लेखा समय के प्रदर्श
तया रीति से दाखिल नहीं किया।

1	2	3	4	5
13.	उत्तर प्रदेश विधान सभा के लिए सांवारण निर्वाचन, 1985	387-यादपी	श्री भग्निन कुमार, ग्राम ब. पो. गोविलपुरा, तह. यादपी, जिला गाजियाबाद (उ. प्र.)	सिवारिन अपर्यों का कोई लेखा शाखिल महीं किया।
14.	—वही—	—वही—	श्री छूटन सिंह, ग्राम कोराजपकरण, तह. यातांगज, जिला बवायू (उ. प्र.)	—वही—
15.	—वही—	—वही—	श्री मोहम्मद, ग्राम जैतपासुर, पो. प्याबली, जिला गाजियाबाद (उ. प्र.)	—वही—
16.	—वही—	—वही—	श्री श्याम बाबू, ग्राम जैतपासुर, पो. प्याबली, जिला गाजियाबाद (उ. प्र.)	—वही—

[S. 76/उ. प्र. वि. स./85(10)]

New Delhi, the 8th December, 1986

ORDER

O.N. 7.—Whereas the Election Commission is satisfied that the contesting candidates specified in column (4) of the Table below at the General election to the Uttar Pradesh Vidhan Sabha, 1985, as specified in column (2) held from the constituency specified in column (3) against their names have failed to lodge the account of their election expenses as shown in column (5) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, Whereas, the said candidates have either not furnished by reason or explanation for the said failure even after due notice of the Election Commission, after considering the representations made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, Therefore, in pursuance of section 10A of the said Act the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a state for a period of 3 years from the date of this order.

TABLE

Sl. Particulars of election No.	S.No. & Name of the constituency	Name & address of the contest- ing candidate.	Reason for disqualification	
1	2	3	4	5
1.	General Election to the U.P. Legislative Assembly, 1985.	52—Bareilly City	Sh. Honarayan Singh, 544, B, Rampur Bagh, Bareilly, (U.P.)	Failed to lodge the account within the time & in the manner.
2.	-do-	157—Utraula	Sh. Abdul Hamid, Purainiya Talab Balrampur, Distt. Gonda (U.P.)	Failed to lodge any account of election expenses.
3.	-do-	-do-	Chaudhary Irtihad Ahmad, Vill. Ahiraula, Post Utraula, Distt. Gonda (U.P.)	-do-
4.	-do-	-do-	Sh. Tula Ram, Vill. & Post Gumari, Distt. Gonda (U.P.)	-do-

1	2	3	4	5
5.	General Election to the U.P. Legislative Assembly, 1985	296—Rajpur	Sh. Ram Prakash Tripathi, Vill. Badagaon, P.O. Meenapur, Distt. Kanpur Dehat (U.P.)	Failed to lodge any account of election expenses.
6.	-do-	336—Bhogaon	Sh. Ashwani Kumar, Vill. & P. O. Madhpuri, Distt. Mainpuri (U.P.)	-do-
7.	-do-	-do-	Sh. Makhan Lal, Vill. Merapur Gujarati, P.O. Ratanpur-bra, Distt. Mainpuri (U.P.)	-do-
8.	-do-	-do-	Sh. Madho Singh, Vill. Naglagarh, P.O. Garhia, Distt. Mainpuri (U.P.)	-do-
9.	-do-	-do-	Sh. Ram Singh. Vill. Bhojpura, Distt. Mainpuri (U.P.)	-do-
10.	-do-	-do-	Sh. Shiv Sahay, Vill. Itaura, P.O. Aitganj, Distt. Mainpuri (U.P.)	-do-
11.	-do-	348—Etah	Sh. Rambaboo, Moh. Narayan Nagar, Etah (U.P.)	-do-
12.	-do-	379—Khuraja	Sh. Srinivas, Moh. Kedarpuri, Bhupender Modinagar, Distt. Ghaziabad (U.P.)	Failed to lodge the account within the time & in the manner.
13.	-do-	387—Dadri	Sh. Anil Kumar, Vill. & Post- Govindpura, Teh. Dadri, Distt. Ghaziabad (U.P.)	Failed to lodge any account of election expenses.
14.	-do-	-do-	Sh. Chhuttan Singh, Vill. Korajaykaran, Teh. Dataganj, Distt. Budaun (U.P.)	-do-
15.	-do-	-do-	Sh. Mohammad, Vill. Jetwarpur, P.O. Pyawali, Distt. Ghaziabad (U.P.)	-do-
16.	-do-	-do-	Sh. Shyambaboo, Vill. Jetwarpur, P.O. Pyawali, Distt. Ghaziabad (U.P.)	-do-

नई विली, 15 दिसम्बर, 1986

धा. धा. 8—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की घारा 106 के प्रत्युसरण में, निर्वाचन आयोग 1985 की नियमित प्रार्थी सं. 7 में इलाहाबाद उच्च न्यायालय, इलाहाबाद के तारीख 13-8-86 के आदेश को एवंश्वारा प्रकाशित करता है।

[स. 82/उ. प्र.-स. स./7/85-इलाहा.]

प्रत्येक से,
एस. डी. प्रशाद, फबर सचिव

New Delhi, the 15th December, 1986

O.N. 8.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Order dated the 13th August, 1986 of the High Court of Judicature at Allahabad in Election Petition No. 7 of 1985.

[No. 82/UP-HP/7/85(ALLD)]

By Order,

S. D. PERSHAD, Under Secy.

IN THE HIGH COURT OF JUDICATURE AT
ALLAHABAD

Civil side

Original Jurisdiction

Dated : Allahabad, August 13th of 1986

BEFORE

Hon'ble B. D. Agrawal

...Justice.

Election Petition No. 7 of 1985

Order on the application of Sri Ram Autar Shastri.

...Petitioner.

In Re.

Ram Autar Shastri.

...Petitioner.

Versus

Khurshid Alam Khan & another, ... Respondent.
Counsel—for the Petitioner.—Sri D. N. Misra.

Council—for the Respondent.—Sri Dinesh Chander
Sri B. D. Mandhyam.

BY THE COURT

Election in the Lok Sabha Constituency No. 68 Farrukhabad took place as part of the General Elections in November/December 1984. Last date for filing nomination was November 27, 1984. The scrutiny took place on 28th November. withdrawal could be had upto 30th November. Poll took place on December 24, 1984 followed by counting on December 28 and 29th. The respondent was declared elected defeating the thirteen rival candidates including the petitioner. The respondent secured 2,36,892 votes; the votes obtained by the petitioner were 1177. The petitioner has filed petition challenging the election of the respondent on grounds stated in paragraphs 5 of the petition as under :—

- (A) Because the result of the election, in so far as it concerns the respondent, has been materially affected by the non-compliance with the provisions of Sections 33 and 36 of the Representation of the People Act 1951 and the conduct of Election Rules. The material facts and Particulars regarding this ground are mentioned in this petition later on.
- (B) Because the respondent, and with his consent his agents and workers, committed the corrupt practice and undue influence within the meaning of section 123(2) of the Representation of the People Act, 1951. Material facts and necessary particulars

in respect of this corrupt practice are mentioned subsequently in this petition.

(C) Because the respondent himself and his agents and workers, with the consent of the respondent, committed the corrupt practice under section 123(4) of the Representation of the People Act, 1951 in as much as the respondent, and his agents and workers with his consent, published statements of facts which were false and which the respondent, and also his agents and workers, believed to be false and did not believe to be true, in relation to the personal character and conduct of the petitioner as also in relation to the petitioner's candidature, such statements being reasonably calculated to prejudice the prospects of the petitioner's election. Material facts and necessary particulars in respect of this corrupt practice are mentioned subsequently in this petition.

(D) Because the respondent himself, and his agents and workers with his consent, obtained and procured, as also attempted to obtain and procure, assistance, for furtherance of the prospects of the respondent's election, from gazetted officers in the service of the Government and also from members of the Police force. Material facts and necessary particulars in respect of this corrupt practice are mentioned subsequently in this petition.

For the returned candidate there is application filed under section 86 of the Representation of the People Act 1951 which the petitioner resists.

I have heard counsel for the parties and perused the record.

It is well settled that to attract Section 100(1) (b) the petitioner has necessarily to aver and prove in order to succeed that the corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of the returned candidate or his election agent. The element of consent is, however, dispensed with in Section 100(1) (d) which instead requires pleading and proof that the corrupt practice in question 'has materially affected' the result in relation to the returned candidate. Dealing with this aspect in Samant N. Balekrishna etc. Vs. George Fernandes and others (A.I.R. 1969 S.C. 1201) the Supreme Court thus explained the position, at page 1210 :—

"The petitioner may prove a corrupt practice by the candidate himself or his election agent or some one with the consent of the candidate or his election agent, in which case he need not establish what the result of the election would have been without the corrupt practice the expression "any other person" in this part will include an agent other than an election agent. This is clear from a special provision later in the section about an agent other than an election agent. The law then is this : If the petitioner does not prove a corrupt practice by the candidate or his election agent or another person with the consent of the returned candidate or his election agent but relies on a corrupt practice committed by an agent other than an election agent, he must additionally prove how the corrupt practice affected the result of the poll. Unless he proves the consent to the commission of the corrupt practice on the part of the candidate or his election agent he must face this additional burden. The definition of agent in this context is to be taken from section 123 (Explanation) where it is provided that an agent 'includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate'. In this explanation the mention of "an election agent" would appear to be unnecessary because an election agent is the alter ego of the candidate in the scheme of the Act and his acts are the acts of the candidate, consent or no consent on the part of the candidate."

Their Lordships in this case laid down moreover that Section 83 of the Act is mandatory. It requires first a concise statement of material facts and then requires the fullest possible particulars. The word 'Material' shows that the facts necessary to formulate a complete cause of action must be stated. "Omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad". The material facts will show the ground of corrupt practice and the complete cause of action and the particulars will give the necessary information to present a full picture of the cause of action. "In stating the material facts it will not do merely to quote the words of the section because then the efficiency of the words 'material facts' will be lost. The fact which constitutes the corrupt practice must be stated and the fact must be co-related to one of the heads of corrupt practice. The power of amendment is given, it was observed, in respect of particular but if a person has omitted to allege a corrupt practice, he cannot be permitted to give particulars of the corrupt practice [vide section 86(5)]. One alleges the corrupt practice in the material facts and they must show a complete cause of action.

In view of the mandatory nature of section 83 (1)(b) where a corrupt practice is charged against the returned candidate (which is quasi criminal in character) the election petition must set forth full particulars of the corrupt practice so as to give the charge a definite character and to enable the Court to understand what the charge is [Manubhai Nandlal Amaresey Vs. Popatlal Manilal Joshi & others (A.I.R. 1969 S.C. 734)]. In Shri Udhay Singh Vs. Mandav Rao Scindia 1977 (1 S.C.C. 511) it was again emphasised that failure to plead even a single material fact leads to an incomplete cause of action and incomplete allegation of such a charge are liable to be struck off under Order 6 Rule 16 C.P.C. If the petition is based solely on these allegations which suffer from lack of material facts, the petition is liable to be summarily rejected for want of a cause of action.

Upon the question arising recently in Azhar Hussain Vs. Rajiv Gandhi, [1986 A.L.J. 625 (S.C.)] it was reiterated that an election petition without the material facts relating to a corrupt practice is not an election petition at all. All the primary facts which must be proved by a party to establish a cause of action of his defence are material facts. "All the facts which are essential to clothe the petition with complete cause of action must be pleaded and failure to plead even a single material fact would amount to disobedience of the mandate of section 83(1)(a). The test propounded is "whether the Court could have given a direct verdict in favour of the election petitioner in case the returned candidate had not appeared to oppose the election petition on the basis of the facts pleaded in the petition."

Referring to the case of Hardwari Lal Vs. Kanwal Singh (A.I.R. 1972 S.C. 515) their Lordships thus repelled the contention raised for the petition that the Court does not have power to dismiss the petition in the absence of the disclosure of cause of action even in exercise of powers under code of Civil Procedure :-

In view of this pronouncement there is no escape from the conclusion that an election petition can be summarily dismissed if it does not furnish cause of action in exercise of the powers under the Code of Civil Procedure. So also it emerges from the aforesaid decision that appropriate orders in exercise of powers under the code of Civil Procedure can be passed if the mandatory requirements enjoined by Section 83 of the Act to incorporate the material facts in the election Petition are not complied with. This Court in Samant's case has expressed itself in no unclear terms that the omission of a single material fact would lead to an incomplete cause of action and that an election petition without the material facts relating to a corrupt practice is not an election petition at all. So also in Udhay Singh's case the law has been enunciated that all the Primary facts which must be proved by a party to establish a cause of action or his defence are material facts. In the context of a charge of corrupt practice it would mean that the

basic facts which constitute the ingredients of the particular corrupt practice alleged by the Petitioner must be specified in order to succeed on the charge. Whether on an election petition a particular fact is material or not and as such required to be pleaded is dependent on the nature of the charge levelled and the circumstances of the case. All the facts which are essential to clothe the petition with complete cause of action must be pleaded and failure to plead even a single material fact would amount to disobedience of the mandate of Section 83 (1)(a). An election petition therefore can be and must be dismissed if it suffers from any such vice. The first ground of challenge must therefore fail.

GROUND A.

The relevant plea relating to this ground is contained in paragraph 6 of the election petition :-

6. That a concise statement of material facts and particulars in respect of Ground (A) is stated as under :-
 - (a) That the respondent filed his nomination paper on 27-11-1984. In this nomination paper the petitioner filled in the name of the party setting him up as a candidate as "Akhil Bhartiya Congress Committee (I)" and mentioned the symbol of the 'hand' in the column meant for it.
 - (b) That there is no political party by the name of "Akhil Bhartiya Congress Committee (I)". The symbol of "Hand" is also not reserved for a party with the above name. Material particulars in the nomination paper were thus wrongly filled in by the respondent in the columns meant for political party and symbol.
 - (c) That as stated above, the nomination paper was filed by the respondent himself with the aforesaid particulars. After the said nomination paper was filed by the respondent to the Returning Officer Dr. Nasim Zaidi, the Deputy District Election Officer Sri Naval Kishore who was also present when the nomination paper was filed by the respondent, informed the respondent and the Returning Officer Dr. Nasim Zaidi that the symbol of "hand" was reserved for "Indian National Congress" and that there was no recognised party bearing the name of "Akhil Bhartiya Congress Committee (I)". On this the respondent requested the Returning officer to return back the nomination paper with permission to correct name of the political party which was setting him up as a candidate. The Returning Officer then told the respondent that the latter should score off the name of "Akhil Bhartiya Congress Committee (I)" and write the name of "Bhartiya Rashtriya Congress" in its place. The respondent then took back the nomination paper, made the corrections as suggested by the Returning officer and then again filed the same.
 - (d) That thus for the purposes of correcting the name of the political party, as aforesaid, the respondent obtained and procured the assistance of the Returning officer who was and is a gazetted officer in the service of the State Government.
 - (e) That section 33 and 36 of the Representation of the people Act 1951 do not empower the Returning officer to return back the nomination paper to a candidate after it was filed or to permit the correction/substitution of the name of any political party in the nomination paper in the column meant for the same.
 - (f) That on the date fixed for withdrawal of the candidature, the allotment of symbols was made to various candidates after the time for withdrawal of candidature was over. The Returning officer allotted the symbol of "hand" to the respondent,

- who contested the election on this symbol and was declared successful.
- (g) That the symbol of "hand" was allotted to the respondent only because the Returning Officer permitted the correction of the name of the political party as aforesaid by the respondent. This symbol could not have been allotted to the respondent if the change of the name of the political party had not been suggested and permitted by the Returning Officer. If the symbol of "hand" had not been allotted to the respondent there was no question of his winning the election as ninety per cent of the votes received by the respondent were cast in his favour only because he was allotted the symbol of 'hand' even though in an illegal and unauthorised manner. The result of the election in so far as it concerns the respondent, has thus been materially affected by the aforesaid non-compliance with, and breach of, the provisions of section 33 and 36 of the Representation of People Act, 1951."

In support of this ground Sri D. N. Misra, learned counsel for the petitioner relies on Section 100 (1)(d) (iv) of the Act which provides that if the Court is of opinion that the result of the election, in so far as it concerns a returned candidate, has been materially affected by any non-compliance with the provisions of the Constitution or of the Act or any rules or orders made under the Act, the Court shall declare the election of the returned candidate to be void. Section 33 makes provision to the effect that nomination paper completed in the prescribed form and signed by the candidate and by an elector of the constituency as the proposer, shall be delivered to the returning officer at the time and place specified. Under Rule 4 of the Conduct of Election Rules 1961 the form prescribed is Form 2 B. One of the columns in this Form is to the effect :—

"that I am set up at this election by the.....Party".

In this column it appears the name of the party mentioned for the respondent in the nomination paper in question was "Akhiy Bharatiya Congress Committee (I)" which was later amended to Indian National Congress. Grievance of the petitioner focused in paragraph 6 of the petition is that the returning officer could not have returned the Form to the candidate for rectification and that in so doing he acted beyond the scope of his powers under Section 33[36 of the Act and also that amounts to corrupt practice within the meaning of Section 123 (7). The second limb of this argument may be dealt with properly when I pass to ground D of the petition. In regard to the first, I am unable to agree with the submission made for the petitioner.

The grounds on which the returning officer may reject a nomination paper are enumerated in sub-section (2) of Section 36. One of these grounds is that there has been a failure to comply with any of the provisions of Section 33. This should be read along side sub-section (4) of Section 36 which lays down :—

"The returning officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character."

A defect which, therefore, is in significant may not constitute a legitimate ground to reject the nomination paper. The word 'substantial' would appear to be used in contradistinction with what is of no real worth or of importance of trifling. The legislative intent is reflected also by sub-section (4) of Section 33 which reads as under :—

"(4) On the presentation of a nomination paper, the returning officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls :

Provided that no misnomer inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any place, mentioned in

the electoral roll or the nomination paper and no clerical, technical or printing error in regard to the electoral roll numbers of any such person in the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper with respect to such person or place in any case where the description in regard to the name of the person or place is such as to be commonly understood, and the returning officer shall permit any such misnomer or inaccurate description or clerical, technical or printing error to be corrected and where necessary, direct that any such misnomer, inaccurate description, clerical, technical or printing error in the electoral roll or in the nomination paper shall be overlooked."

The contention raised for the petitioner that in the absence of an express provision for return of the nomination paper by the returning officer, he could not pass over the same to the respondent for the name given of the party to which he claimed to belong being set right, is in my view devoid of substance. The power in this behalf is implicit in what is provided specifically in Section 36(4)[33(4) of the Act. A conjoint reading of these provisions shows that the returning officer does not function as a bare post office. Upon the submission of the nomination paper he conducts an inquiry, though it is true the inquiry at this stage is peripheral, vide Brij Mohan Vs. Satpal (1985) S.C., 652). There may be objection raised before him by any candidate, his election agent, the proposer or other person authorised to be present at the time of scrutiny under section 36(1) and the returning officer is enjoined to give them all reasonable facilities for examining the nomination paper. The returning officer is required to scrutinise the nomination paper and if he decides to reject the same he has to pass a speaking order giving reasons in support of the decision. If, therefore, there is some ambiguity appearing on its face or an anomaly not admitting of controversy, it does not seem that the returning officer is bereft of the power to get the correction made.

In Lila Krishan Vs. Mani Ram Godara and others (A.I.R. 1985 S.C. 1073) the serial number of the vote of the proposer mentioned in the nomination paper did not tally with the serial number mentioned in the voters list. There was no assistance provided to the returning officer to co-relate and identify the proposer. The returning officer proceeded to reject the nomination paper. In this context the Supreme Court referring to the proviso to Section 33(4) observed :—

"The contents of the aforesaid proviso and the provisions of sub-s. (4) of S. 36 when read together make it clear that the mistake with reference to the serial number was such an error in this case which could be corrected. Under Section 36(1) of the Act, on the date fixed for scrutiny of nominations election agents, one proposer of each candidate and one other person duly authorised in writing by each candidate are entitled to appear before the Returning Officer, and such persons are entitled to reasonable facilities for examining the nomination papers. The purpose of making such provision is to facilitate scrutiny. The presence of candidate, his election agent and another person acquainted with the Constituency would certainly facilitate the process of scrutiny. Defects covered by the proviso to S. 33(4) could easily be resolved if people authorised under S. 36(1) of the Act are present at the time of scrutiny. What could be resolved or overlooked in case proper steps were taken in due time has become a major issue leading to rejection of nomination papers in the instant case mainly on account of the absence of the candidates, their election agents or persons interested in them at the time of scrutiny".

Further it was observed :—

"We reiterate that it could not be a statutory obligation of the Returning Officer to scrutinise the electoral roll for finding out the identity of the proposer when the serial number turns out to be wrong. But if interested and competent persons point out to

the Returning Officer that it is a mistake, it would certainly be his obligation to look into the matter to find out whether the mistake is inconsequential and has, therefore, either to be permitted to be corrected or to be overlooked". (Emphasis supplied).

From these observations also I derive support in my view that in permitting the correction to be made as in the present, the returning officer may not be said to have acted beyond the scope of his powers under Sections 36/33.

Further, it is nowhere pleaded in the petition that the symbol mentioned in the prescribed column of the nomination Form was other than 'Hand' at any stage. It is also not disputed that this symbol stood allotted to the particular party. The fact that this was the symbol mentioned in the nomination paper from the inception is suggestive of the party whose candidate the petitioner proposed to be at the election. The symbol referred to in the nomination Form could not be overlooked. That had to be considered along side with the name of the party mentioned therein and since there was an apparent ambiguity existing this could be clarified or corrected at the time of scrutiny. Sub-section (3) of Section 36 provides moreover, that there may be no rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed. It is not stated in the petition anywhere that this was the solitary nomination paper filed for or on behalf of the petitioner or that in the other too the party was made scribed. Nor has it been suggested that there was any party recognised in the name of the "Akhil Bharatiya Congress" or that the symbol of 'Hand' had been allotted thereto. The error pertained to mere description which was open to be rectified. This is apart from the other material fact namely that the petitioner has given no specific facts to support his bar averment that the result of the election was materially affected in favour of the respondent on this account.

For the above, I have no hesitation whatever in coming to the conclusion that the plea taken for the petitioner in paragraph 6 of the petition is of little weight or importance having no basis in law or frivolous in other words, and deserves to be struck off.

GROUND B.

For this reliance for the petitioner is on paragraph 7(a) to (g) of the petition which reads :—

"7. That a concise statement of material facts and particulars in respect of ground 'B' stated below :—

- (a) That the respondent met the petitioner at about 2 P.M. where the triangular crossing of Kaimaganj-Tahsil Office and asked the petitioner to withdraw his candidature from the election failing which the respondent shall get the petitioner arrested. The petitioner requested to oblige the respondent. This action of the respondent is threatening the petitioner with arrest in the event of not withdrawing his candidature from the election amounts to interference with the petitioner's right to contest the election and is thus a corrupt practice within the meaning of section 123(2) of the Representative of People Act, 1951.
- (b) That Jag Mohan Lal alias Guru Panwala, a polling agent of the respondent and an agent and worker of the respondent, along with Ajai son of Amar Nath Shukla, employee of Bank of India, resident of Dariba West, Farukhabad also an agent and worker of the respondent, both acting with the consent of the respondent, met the petitioner on 5-12-1984 at about 7 P.m. near the shop of Jag Mohan Lal alias Guru Panwala. These two persons acting with the consent of the petitioner threatened the petitioner with the dire consequences in case he did not withdraw from the contest. These persons also forcefully snatched leaflets which the petitioner had in his possession in connection

with the election and tore the same throwing it on the street. They threatened the petitioner that if the petitioner did not withdraw from the election and continue to contest the same they shall beat him and shall break his head and hands. When the petitioner resisted the aforesaid two persons the petitioner was attacked by them, not only by the aforesaid two persons but two or three other workers and agents of the respondent who were sitting at the shop of Jag Mohan Lal. The petitioner went to the Police Station to lodge a F.I.R. in this connection but the same was not taken down with the result that the petitioner sent a written report of the incident on 6-12-1984.

- (c) That one D. P. Singh, Sub-Inspector of Police Out-Post Nakkhas was openly moving with the respondent during his election campaign. This D. P. Singh called on the petitioner on 13-12-1984 and threatened the petitioner of dire consequences in case he still continues to contest the election. This D. P. Singh claim himself to be nephew of Gulab Sehra, General Secretary of U.P. Congress (I) and was openly canvassing for the respondent with the consent of the respondent in the aforesaid election. The petitioner went to Police Station Kotwali, Farukhabad on 14-12-1984 to lodge a report of the threat extended by D. P. Singh to the petitioner. At Kotwali the petitioner was beaten and he was asked to withdraw in favour of the respondent. He was further threatened by the police personnel at Kotwali that in case he continues to contest the election and did not withdraw he will have to face serious physical injuries. The petitioner gave a written report about this incident on 14-12-1984 to the District Magistrate.
- (d) That on 16-12-1984 at about 9.30 A.M. the aforesaid D. P. Singh Sub-Inspector of Police and a number of Congress workers, all acting with the consent of the respondent, came to the residence of the petitioner where he had also his election office. The aforesaid D. P. Singh and other Congress workers gave a beating to the petitioner and again threatened him to withdraw in favour of the respondent. They further threatened that in case the petitioner did not withdraw from the contest his hands and legs will be broken. Among the workers who had accompanied the aforesaid D. P. Singh were Jag Mohan Lal alias Guru Panwala who also acted as polling agent of the respondent on the date of poll. All the aforesaid persons were acting with the consent of the respondent in threatening the petitioner as aforesaid. The petitioner lodged a report about this incident at Police Station Kotwali on 16-12-1984 itself.
- (e) That when N. C. Azad, Sub-Inspector of Police, Police Out-Post of Kadri Gata of Farukhabad was posted along with the petitioner for the purposes of his security. This sub-Inspector N. C. Azad was however acting as an agent of the respondent with the consent of the respondent. In the evening of 19-12-1984 the aforesaid Sub-Inspector of Police threatened the petitioner by saying that he should withdraw in support of the respondent failing which he shall have to lose his life. He also pointed his rifle on the petitioner and abused him. He did not permit the petitioner to enter Bhogaon Assembly Constituency which is a part of the aforesaid Parliamentary Constituency. The petitioner sent a written information by registered post on 19-12-1984 about this incident to the Chief Election Commissioner, New Delhi, the District of Police, Lucknow and the District Magistrate, Farukhabad. This incident took place at the Head Post & Telegraph Office, Fatehgarh.
- (f) That for the purposes of the petitioner's security police-men were provided to him by the administration but these persons also colluded with the con-

gress workers and the respondent. That at about 8.00 or 8.30 P.M. on 12-12-1984 the aforesaid Jag Mohan Lal alias Guru Panawala along with a number of persons attacked the petitioner near the shop of Baba Panwala in Chowk Ghanta Ghar, Farrukhabad. Those persons, who were acting with the consent of the respondent not only caused injuries to the petitioner but also robbed him of all the belongings he had at the moment. They said while committing the aforesaid crime that if the petitioner did not withdraw from the contest he will have to face more serious consequences. The petitioner lodged an information about this incident with the Officer-Incharge of Police Station Kotwali, Farrukhabad, on 13-12-1984.

- (g) That the aforesaid actions of the respondent and his agents and workers was acted with the consent of the respondent amount to corrupt practice within the meaning of Section 123(2) of Representation of People Act, 1951 and the election of the respondent is liable to be set aside on the ground of commission of aforesaid corrupt practices."

Under Section 100(1)(b) the election may be declared void if in the opinion of the Court any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent. The corrupt practice and undue influence which section 123(2) deals with has the following ingredients :

- (i) Any direct or indirect interference or attempt to interfere with the free exercise or any electoral right;
- (ii) The interference or attempt to interfere on the part of the candidate or his agent or on any other person with the consent of the candidate or his election agent.

It is worthy of note, as rightly submitted by Sri B. D. Madhyam, learned counsel appearing for the respondent, that the petitioner has not placed his case under Section 100(1) (d) (ii). If that were done, the element of consent would have been dispensed with; in that event, as discussed above, he will have had to allege and prove its material effect upon the result of the election of the returned candidate. For purposes of Section 100(1)(b) read with Section 123(b) consent of the candidate is of vital importance. This is not a matter of better particulars but a material fact and as such in dispensable part of the cause of action. Better particulars may be furnished by amendment in the petition but not a material fact. The petition stands to fail if this material fact constituting a vital link to the averments made is not specifically pleaded and thereafter proved beyond reasonable doubt. Evidence admissible in the case has to be co-related to the pleadings; a departure from the pleadings in accordance with evidence is not permitted. Consent, it has been said, is the life-line to link up the candidate with action of the other person which may amount to corrupt practice and must be specifically pleaded (Surender Singh Vs. Hardial Singh (1985) (1 S.C.C. 91)). It is not enough to recite the statutory provisions or to adopt the language of Sections 123/100 of the Act. In Azhar Hussain Vs. Rajiv Gandhi (*supra*) the Supreme Court took note of the fact that in the pleadings there was no averment as to :

- (i) whom the returned candidate gave consent;
- (ii) in what manner and how; and
- (iii) when and in whose presence the consent was given.

Viewed in this light, the petitioner in sub-para (b) of paragraph 7 of the petition in the present case does not specify in what manner and how was the consent given by the respondent or when and in whose presence this was done. Jag Mohan Lal alias Guru Panawla is described as a polling agent of the respondent and an agent worker of the respondent (which in itself is not free from being ambiguous) but more than the there is nothing of the sort stated in regard to Atilal son of Arvai Nath who is alleged to have met the petitioner along with Jag Mohan Lal on the relevant date. The pleadings do not spell out how may

the consent of the respondent be attributed to the alleged threat given by any of these two persons. The paragraph then goes on to recite that two or three other workers and agents of the respondent sitting at the shop of Jag Mohan Lal joined hands with them. No particulars of these other persons are to be found nor is it stated that they also acted with the consent of the respondent or his election agent. It is said then that a written report was lodged on 6th December 1984 but that does not accompany the pleadings and the contents thereof remain undisclosed. In relation to sub-paragraph (c) likewise the element of consent of the respondent is not spelled out with due specification. It is not stated that there was the consent of the respondent or his election agent to the alleged act of D. P. Singh, Sub-Inspector of Police in threatening the petitioner on the 13th December 1984. Not merely this the assertion is that the petitioner went to police station Kotwali on 14th December 1984 to lodge a report of the threat extended by D. P. Singh and at Kotwali the petitioner was beaten and asked to withdraw in favour of the respondent. The police personnel allegedly threatened the petitioner asking him to withdraw. There is not a word to infer that this act of the police personnel of P. S. Kotwali was pre-planned at the instance of respondent or his election agent or that this was with their consent express or implied. There is no indication that the respondent or his election agent could have prescience of the petitioner going to the police station on the 14th December 1984. The written report dated 14th December 1984 referred to in this paragraph is also conspicuous in its being absent from the pleadings.

In sub-para (d) the expression "as number of congress workers" is left unelucidated. The words "all acting with the consent of the respondent" hereby reproduce the language of Section 123(2) with nothing of material fact narrated therewith. We do not in this have any material to attribute consent of the respondent or his election agent to the threat allegedly administered to the petitioner. Needless to repeat the report dated 16th December 1984 in connection with his alleged incident also does not figure along with the pleadings. In paragraph (e) the accusation is against a Sub Inspector of Police assigned the duty of a security guard for purposes of the security of the petitioner. The averment made is that he was acting as an agent of the respondent with the consent of the respondent. One may persist the petition in vain to gather wherefrom this consent of the respondent to the Sub Inspector in question acting against the interest of security of the petitioner is inferred. There is no material fact pleaded to attribute any such consent to the respondent or his election agent. Where again the report dated 19th December 1984 is not appended. This applies with equal force to sub-para (f). There is no basis given out in that sub paragraphs for the petitioner to infer collusion as between the security police men assigned to the petitioner on the one hand and the congress workers and the respondent on the other. It has been stated that Jag Mohan Lal was accompanied with a number of persons on 12th December 1984 and that those persons were acting with the consent of the respondent. For that too there is no foundation laid in as much as this remains a bald statement unsupported by any narration of relevant facts. The report dated 13th December, 1984 to which this paragraph refers is also not before us.

In sub-paragraph (a) as submitted by Sri Madan the date is conspicuous by its omission ordinarily this will be a matter for better particulars covered under Section 83(1)(b) of the Act. But in the context in this sub-paragraph appears in the present there is force in the submission for the respondent that a reference to the date has been left intending to fill in the same later as may seem expedient. It has not been said for the petitioner that the date was left over by inadvertence. More important than this is the obvious fact that the threat attributed to the respondent in present is altogether vague. The petitioner does not disclose what did the respondent actually say. Unlike the other sub paragraphs it is not even said in relation to sub-para (a) that there was a report lodged by the petitioner.

GROUND C

Paragraph 8 of the petition relevant in this connection proceeds as under:

- "8. That a concise statement of material facts and particulars in respect of ground (c) is stated here under:
- (a) That the respondent himself and with his consent his agents and workers published statement of facts in relation to the petitioner's candidature as also his personal character and conduct. Such statements being false and which the respondent and his agents and workers knew to be false and do not believe to be true. These statements were reasonably calculated to prejudice the prospects of the petitioners election. Details about the aforementioned statements or facts including the name of the persons making the said statement or fact, the date and place where such statements were published are mentioned here and after.
- (b) The petitioner was seriously contesting the aforesaid election but the respondent and his agents and workers with his consent falsely published statements to the effect equating the petitioner as an insane person. The petitioner was wrongly not falsely sought to be described as the Robin Hood of Farrukhabad and brought the news published to the effect, in a newspaper 'Vikas Sheel Bharat' of Agra, in its issue dated 13-12-1984. Copies of this newspaper were widely circulated by Jag Mohan Lal alias Guru Panwala and a number of other agents and workers of the respondent, with the consent of the respondent. In particular copies of the said newspaper were distributed on 16-12-84 at and near a shop of the aforesaid Jag Mohan Lal at Nala Machaharatta, Farrukhabad. The statements in the said news item were false which the respondent and his agents and workers knew to be false and did not believe to be true. These statements were reasonably calculated to prejudice the prospects of the petitioner's election.
- (c) The respondent his agents and workers got the news published in the newspaper 'AAJ' of Agra in its issue dated 17-12-1984 under the heading 'Tantik Ka Naya Tamasha—Preshan Ke Liye Sir Dard Bana'. In this article the petitioner's candidature was pointed as a means of public entertainment and he was described as an insane. This statement of fact was absolutely false and the respondent and his agents and workers knew it to be false and did not believe it to be true. The aforesaid statement related to the petitioner's candidature and also to his personal character and conduct and was reasonably calculated to prejudice the prospects of the petitioner's election. Copies of this news paper were distributed by the aforesaid Jag Mohan Lal alias Guru Panwala agents of the respondent with the consent of the respondent and a number of other agents and workers of the respondent with his consent in Farrukhabad on 18-12-1984.
- (d) That the aforesaid statement in the 'AAJ' dated 17-12-1984 further made false statements regarding the petitioner's expenses with the object degrading the petitioner in the public eye. This statement also related to the petitioner's candidature and was published with the aforesaid object by the aforesaid persons knowing the same to be fully false and not believing the same to be true.
- (e) That another false statement of fact relating to the petitioner's candidature and his personal character and conduct was published in 'Vikas Sheel Bharat' of Agra dated 21-12-1984, under the heading Khaiecha Kon Kare—Pratyashi Ya Guard ? This article again describes the petitioner as a means of entertainment and stated that the petitioner's

expenses were met by the police. These statements contained in the said article were false and related to the petitioner's candidature and also his personal character and conduct. These statements were published with the object of lowering the prestige of the petitioner and for prejudicially affecting the prospect of the petitioner. The respondent and his agents and workers knew that the statements in the aforesaid article were false and they did not believe it to be true. Copies of the aforesaid newspaper were widely distributed by the aforesaid Jag Mohan Lal alias Guru Panwala on 22-12-1984 in Nala Maxbcharatta, Farrukhabad with the consent of the respondent.

- (f) That on 17-12-1984 another new item was published in the daily 'Jagran' of Agra, dated 17-12-1984 under the heading 'Nirdalay Pratyashi Police Ke Liye Sir Dara Bana 8. This article contained an absolutely false statement in relation to the petitioner's personal character and conduct as also his candidature. The respondent and his agents and workers knew the contents of these said article to be false and did not believe to be true; The respondent's agents and workers namely Maharam Singh Ex. MLA, Vimal Tiwari MLA Jagmohan Lal alias Guru Panwala, Suresh Rathore and so many others distributed copies of the said newspaper all over the constituency on 18-12-1984 with the object to prejudicially affect the petitioner's prospects of the election. The said article was reasonably calculated to that effect. The names of the persons who distributed the said newspaper as aforesaid with the consent of the respondent are as follows.
- (g) That not only the agents and workers of the respondent but the respondent himself described the petitioner as an insane and a joker. He further described the petitioner as a person depending for his expenses upon the money paid by the administration, to the police posted for his security. The respondent thus himself committed the corrupt practice under section 123(4) of the Representation of the People Act.

Section 123(4) of the Act provides:

- "(4) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his election agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, on in relation to the candidature, or withdrawal, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election."

The settled principle is that to attract section 123(4) the document impugned must be read as a whole and its purpose and effect determined in a fair, objective and reasonable manner (Kultar Singh Vs. Mukhtiar Singh) (AIR 1965 SC 141). There is distinction observed between a false statement of fact which affects the personal character or conduct of a candidate and a false statement of fact which deals with the political position or reputation or action of the candidate. In matters of election, the public and political character of a candidate is open to scrutiny and can be criticised even severely by his opponents, but not so his private or personal character. Every false allegation it has been held does not come within the mischief of section 123(4). When any false allegation of fact pierces the politician and touches the person of the candidate then section 123(4) is attracted (T-K-Ganga Reddy Vs. MCA Reddy (1960) 22 ELR 262 (Mysore); Gurjri Shrihari Baliram Tivatode Vs. Vithalrao (AIR 1970 SC 1841); Dr. Jagji Singh Vs. Giani Kartar Singh (AIR 1966 SC 773). A statement which reflects on the mental or moral character of a person is fastigation of his personal character, whereas any criticism of a person's political or public activities and policies is outside it. (Sheopal Singh Vs. Ram Pratap (AIR 1965 SC 677). The statement must be such as would in the estimate of the

Court having regard to the nature of the publication, the evidence tendered of surrounding circumstances have the natural and probable consequence to prejudice the prospects of the candidate relating to whose personal character or conduct the publication has been made. The emphasis is on the probable effect on the election vide AIR 1964 Bombay 344 cited with approval in AIR 1970 SC 1841 (Supra).

In Azhar Hussain Vs. Rajiv Gandhi (Supra) relied for the respondent the omission of the names of the workers said to have been employed by the respondent or his agents who allegedly painted objectionable slogans was adversely commented. In relation to the speeches impugned, it was noticed too that no exact words from the speeches were quoted in the petition. In regard to the posters objected to by the petitioner in that case, the Supreme Court observed :—

"The High Court has taken view that the poster was claimed to be an integral part of the election petition and since it was not filed (much less its copy furnished to the respondent) the pleading suffered from infirmity and non compliance with section 83(1) read with section 86(1) of the Act. Non-filing of the poster is fatal to the election petition as in the absence thereof the petition suffers from lack of material facts and therefore the statement of cause of action would be incomplete The fact remains that without the production of the poster the cause of action would not be complete and it would be fatal to the election petition in as much as the material facts and particulars would be missing. So also it could not enable the respondent to meet the case.....In the absence of the names of the respondent's workers, or material facts spelling out the knowledge and consent of the respondent or his election agent, the cause of action would be incomplete."

Sub-paragraph (a) of paragraph 8, in consideration, barely reproduces section 123 (4). In start para (b) the first sentence does not name the agents and workers. The consent is again left vague. It is not denoted as to when or how was the petitioner published as insane. There is nothing said to the effect that those persons believed it to be false or did not believe it to be true. The newspaper 'Vikash Sheel Bharat' of Agra dated 13th December 1984 or relevant extract therefrom is not a part of the pleadings. Regarding circulation of the newspaper by Jug Mohan Lal there is a bare statement of a number of other agents/workers being involved with no specification given as to any of them. For that the element of consent remains unsatisfied in the manner required. In sub-para (c) the alleged agents and workers of the respondent are not named. The issue of 'AAJ' dated 17th December 1984 is not appended. The exact words used are not quoted nor is the relevant portion extracted. There is mentioned merely of inference drawn by the petitioner. For alleged distribution too the requisite material facts concerning the consent of the respondent are not spelled out. In sub-para (d) the pleading that the statement in 'AAJ' dated 17-12-84 made false statement regarding the petitioner's expense with the object of degrading the petitioner in the public eye, is not only vague but also pertains to the political position or reputation or action of the petitioner as distinct from its personal character or conduct. This is true also of the narration made in sub-para (e) relating to the alleged publication in 'Vikash Sheel Bharat' dated 21st December 1984 heading 'Kharcha Kaun Kare Pratyashi Ya Gujard.' This too would be taken to pertain to the political image or action of the concerned candidate and not his personal conduct or character. That issue of the newspaper is also not before us as part of the pleadings nor is there reproduction of the exact language employed on the reading whereof as a whole alone the inference such as is reasonable could be drawn. It may not be overlooked that the relevant publication would have been regarded as integral part of the pleadings. It should have been considered incumbent for the petitioner to append them in the pleadings in order that the statement made of facts might be precise and also the respondent could have opportunity to rebut the same. In this sub-paragraph as well the alleged consent for distribution of the newspaper is unsupported and sub-paragraph (f) sails in the same boat.

It is barely narrated that in the issue of 'Jagran' dated 17-12-1984 there was a publication under the heading "NIRDALIYA PRATYASHI POLICE KE LIYE SIRDARD BANA". The petitioners contention in the following sentence is that this article contained an absolutely false statement in relation to the petitioner's personal character and conduct as also his candidature. I wonder how could this inference be drawn without there being the text of the publication reproduced or the publication made an appendix to the pleadings. In relation to the distribution the petitioner has gone on to insert so many other without giving any particulars thereof. In sub-clause (g) it has been stated barely that the respondent himself described the petitioner as insane and a joker. There is no mention of the date time or place to this alleged description of the petitioner made by the respondent.

GROUND D.

The reference made for this is to paragraph 10 to 13 of the petition :—

10. "That the respondent himself and his agents and workers with his consent obtained and procured, as also attempted to obtain and procure assistance of the Gazetted officers in the service of the Government of Uttar Pradesh and also from members of the police force for furtherance of the prospects of his election.
11. That, as stated above, the respondent obtained assistance of the returning officer Dr. Nasim Zaidi in taking back his nomination paper and thereafter correcting the name of the political party filled up in the nomination paper. But for this assistance obtained by the respondent in correcting the nomination paper, the respondent would have been allotted the symbol of "hand". This assistance was obtained by the respondent for the furtherance of the prospects of his election.
12. That Dr. Nasim Zaidi was, and is, also the District Magistrate of District Farrukhabad, and is a gazetted officer in the service of the Government of Uttar Pradesh.
13. That the respondent also obtained the assistance of several members of the police force namely Shri D.P. Singh, Sub-Inspector of Police of Police Out-post Nakkhas and Shri N.C. Azad, Sub-Inspector of Police, Police out-post Qaderi Gate, Farmkhabad, whom the respondent used for the purposes of threatening the petitioner in the manner stated in earlier parts of this petition relating corrupt practice under ground (B). This assistance of members of the Police force was obtained by the respondent for the furtherance of the prospects of his election."

The ingredients of Section 123(7) were analysed by the Supreme Court in Azhar Hussain Vs. Rajiv Gandhi (supra).

"(2) In regard to the alleged corrupt practice pertaining to the assistance obtained from a Government servant, the following facts are essential to clothe the petition with a cause of action which will call for an answer from the returned candidate and must therefore be pleaded :

- (a) Mode of assistance ;
 - (b) Measure of assistance ; and
 - (c) All various forms of facts pertaining to the assistance.
- (3) In the context of an allegation as regards procuring, obtaining, abetting or attempting to obtain or procure the assistance of Government servants in election it is absolutely essential to plead the following:
 - (a) kind or form of assistance obtained or procured;
 - (b) in what manner the assistance was obtained or

procured or attempted to be obtained or procured by the election-candidate for promoting the prospect of his election.

- (4) The returned candidate must be told as to what assistance he was supposed to have sought, the type of assistance, the manner of assistance, the time of assistance, the persons from whom the actual and specific assistance was procured.
- (5) There must also be a statement in the election petition describing the manner in which the prospects of the election was furthered and the way in which the assistance was rendered.
- (6) The election petitioner must state with exactness the time of assistance, the manner of assistance, the persons from whom assistance was obtained or procured, the time and date of the same. All these will have to be set out in the particulars."

Now paragraph 10 extracted above is obviously general and leads nowhere left to itself. Shri Misra urged that paragraph 11 and 12 be read along with par 6 quoted earlier. From the discussion made in dealing with Ground A, it would transpire that the act of the returning officer was in due discharge of his official duty enjoined under Section 36 (4)/33(4). Under the statutory provisions the returning officer could scrutinise and get the defect which was not substantial in character, removed. This, therefore, may not be characterised as an act done in furtherance of the prospects of the respondent's election within the meaning of section 123(7). The proviso to section 123(7) which was inserted with retrospective effect by the Central Act, 40 of 1975 and the validity whereof was upheld in Smt. Indira Nehru Gandhi Vs. Raj Narain (A.I.R. 1975 S.C. 2299) is also relevant. This proviso expressly excludes from the purview of corrupt practice, a case where any person in the service of Government in the discharge or purported discharge of his official duty provides any facility or does any other act or thing for or in relation to any candidate; this is not to be taken as assistance rendered for the furtherance of the prospects of the election of that candidate. The returning officer acted evidently in the discharge or in any case the purported discharge of his official duty.

Paragraph 13 is co-related to paragraph 8(c), (d) and (e). In itself paragraph 13 makes no mention of any material fact. Paragraph 8(c), (d), (e) has been discussed above already. For reasons discussed above these do not bring out with precision the allegations for inferring that the returned candidate, his election agent or any other person with his consent procured, obtained, abetted or attempted to obtain or procure the assistance of Government servants, the mode of assistance, the measure of assistance, and the various form of facts pertaining to the assistance as well remain unsatisfied.

In the result, for the discussion made above it follows that the petition does not disclose a cause of action such as may be pursued reasonably by the petitioner. The petition which was filed on the last date of limitation viz, December 12, 1985 deserves thus to be dismissed keeping in view Order 7 Rule 11 Code of Civil Procedure read with Section 87 of the Representation of the People Act 1951.

The petition is dismissed accordingly with costs to the respondent which I assess at Rs. 500.

August 13, 1986.

RAMESH PRASAD
Examined by—J. B. Lal.

Dated : 25-8-1986.

Sd/- B. D. AGRAWAL

दर्श दिल्ली, 26 दिसम्बर, 1986

आ.प्र. 9.—शोध प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की घारा 10क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत निर्वाचन आयोग, दिल्ली प्रशासन के परामर्श से श्री भार.सी. इसांगो के स्थान पर श्री भार.के प्राहुजा, पाई.ए.एम., महिद(गह), दिल्ली प्रशासन को उनके कार्यभार सम्पादन की तारीख से मगाले श्रादणों के दिल्ली मंत्र राज्य-क्षेत्र के मुख्य निवाचन अधिकारी के स्थान में नामनिर्देशित करता है।

[सं. 154/दिल्ली/86]
श्रादण से,
श्रार.पी. इसांगा, सचिव

New Delhi, the 26th December, 1986

O.N. 9.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission of India, in consultation with the Administration of the Union Territory of Delhi, hereby nominates Shri R. K. Ahooja, IAS, Secretary (Home), Delhi Administration, as the Chief Electoral Officer for the Union Territory of Delhi with effect from the date he takes over charge and until further orders vice Shri R. C. Illango.

[No. 154/DL/86]
By Order.
R. P. BHALLA, Secy.

